

EX. B

COPY

1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 SHAW FAMILY ARCHIVES, LTD.,  
5 EDITH MARCUS, and META STEVENS

6 Plaintiffs,

7 - against -

8 CMG WORLDWIDE, Inc., an Indiana  
9 corporation, and MARILYN MONROE,  
liability company,

10 Defendants.  
11 -----x

12 Ellen Grauer Court Reporters  
13 126 East 56th Street  
14 New York, New York

15  
16 December 26, 2007  
17 12:01 p.m.

18  
19 30(b)(6) deposition of MARK  
20 ROESLER, before Marlene Lee, CSR, CRR, a Notary  
21 Public of the State of New York.

22  
23 ELLEN GRAUER COURT REPORTING CO. LLC  
24 126 East 56th Street, Fifth Floor  
25 New York, New York  
212-750-6434  
Ref: 86257

1 ROESLER

2 A. I -- I don't know that we took  
3 specific action as a result of this letter.

4 Q. This document came from CMG's  
5 files?

6 MS. COLBATH: Objection.

7 A. Did -- are you asking me?

8 Q. I'm asking you.

9 A. Like I said, I don't recall seeing  
10 this letter. I don't think it came from our  
11 files. I don't recall seeing it.

12 Q. A second ago you said it did.

13 MR. MINCH: Objection.

14 MS. COLBATH: Objection.

15 A. No, you asked me if I've ever seen  
16 document 12. I said I've never seen the cover  
17 letter, that I can recall. But I've seen it.  
18 The second part of 12 got circulated, a fax  
19 copy you'd see every once in a while. Your  
20 question is, did this come from our files? I  
21 don't think it did. I don't think it did.  
22 It's possible there's something in our files I  
23 don't recall, but --

24 MR. SERBAGI: If the court reporter  
25 would mark as Roesler 13, bearing

1 ROESLER

2 production Nos. MM 0013310 through  
3 13319.

4 (Roesler Exhibit 13 for  
5 identification, document, written by M.  
6 Roesler, 5-2-95, production Nos. MM  
7 0013310 through 0013319.)

8 Q. Have you seen this document before,  
9 Mr. Roesler?

10 A. It looks like I wrote it.

11 Q. When you refer to you wrote it, did  
12 you write all of the pages that are contained  
13 within Roesler 13?

14 A. I mean, at least to some extent.

15 Q. To the extent you didn't write it,  
16 did you review it before it was sent to --

17 A. Yeah.

18 Q. -- Ms. Strasberg?

19 A. Yes.

20 Q. You would have made sure everything  
21 in here is true and accurate?

22 A. I would.

23 Q. You wouldn't lie to Ms. Strasberg,  
24 would you?

25 A. No.

1 ROESLER

2 Q. That's your signature on page 1?

3 A. It is.

4 Q. Dated May 2nd, 1995; correct?

5 A. Yes.

6 Q. What was the gist of what you were  
7 trying to say in the first page of this  
8 document to Ms. Strasberg?

9 MS. COLBATH: Objection.

10 A. I don't -- I don't recall. I don't  
11 know what --

12 Q. If you could just read the first  
13 page to yourself. Maybe it will refresh your  
14 recollection.

15 MR. MINCH: I'm sorry. What  
16 page --

17 A. You're asking what the recent legal  
18 victory on the West Coast was?

19 Q. I'm just asking you to read the  
20 cover page, this letter that you sent to  
21 Ms. Strasberg, and tell me what the purpose of  
22 this letter was.

23 A. Well, it was right before -- we  
24 started representing the -- officially  
25 representing the estate 90 days later, so it

1 ROESLER

2 was probably in our lead-up to representing --

3 Q. It says in the second paragraph,  
4 "In a follow-up to my recent letters and  
5 correspondence to you and my meetings a few  
6 days ago with Mr. Seidman and Mr. Starr, I have  
7 enclosed a brief summary of our position." Do  
8 you see that?

9 A. Yes.

10 Q. By the way, is that the Ken Starr  
11 that you are referring to there? It says "Ken  
12 Starr" on the bottom of the page, cc'd.

13 A. What do you mean, "the Ken Starr"?

14 Q. Kenneth Starr.

15 A. You mean the one on the news a lot?

16 Q. Yes.

17 A. It's a different Ken Starr. But a  
18 lot of people get him confused. He's a well  
19 known financial adviser in New York.

20 MS. COLBATH: He thinks he's the  
21 Ken Starr.

22 Q. When you say, "I have enclosed a  
23 brief summary of our position," what did you  
24 mean?

25 A. I guess it's what's right here,

1 ROESLER

2 attributes." Do you see that?

3 A. That's correct.

4 Q. There's a list of bullet points  
5 underneath that. Do you see that?

6 A. Yes.

7 Q. And you wrote those bullet points;  
8 correct?

9 A. I did.

10 Q. If you turn to the -- let's start  
11 with the first bullet point. "Encompasses  
12 protection of names, voices, signatures,  
13 photographs, images, likeness, or distinctive  
14 appearances, gestures, or mannerisms." Do you  
15 see that?

16 A. Yes.

17 Q. Is that something that you wrote?

18 A. At least reviewed.

19 Q. True and correct?

20 A. I'm sorry?

21 Q. Strike that. Turning to the fourth  
22 bullet point, you state -- if you'd read that  
23 into the record.

24 A. I'm sorry? You want me to read it?

25 Q. The fourth bullet point, starting,

1 ROESLER

2 "Is only the second state" --

3 A. -- "to explicitly define conduct  
4 by which an out-of-state infringer submits to  
5 the jurisdiction of Indiana courts, provides  
6 important guidance and choice of law, domicile  
7 requirements which case law shows courts  
8 generally apply the law of the state where the  
9 person was domiciled in death here in New York  
10 which does not recognize the decedent's death."

11 Q. What did you mean by that  
12 statement?

13 A. That -- I meant that Indiana was an  
14 important state to use because it doesn't look  
15 to the domicile of where the decedent was  
16 domiciled.

17 Q. When you refer to "decedent,"  
18 you're referring to Marilyn Monroe?

19 A. That's correct.

20 Q. You say, "apply the law of the  
21 state where the person was domiciled at death."  
22 That person you're referring to is Marilyn  
23 Monroe?

24 A. That's correct.

25 Q. You say "here in New York." Do you



1 ROESLER

2 see that?

3 A. I do.

4 Q. Do you recall making that  
5 statement?

6 A. I recall -- I mean, I generally  
7 recall this document, but -- so I'm sure I made  
8 the statement.

9 Q. Thank you. Do you recall having  
10 communications with Larry Shaw back in December  
11 of 2006?

12 A. I don't remember specific dates,  
13 but Larry and I talked a lot. Recent --

14 Q. Do you recall ever stating to Larry  
15 that, pursuant to the Indiana statute, Larry  
16 and my clients would be responsible for paying  
17 CMG's and MMLLC's attorneys' fees in connection  
18 with the present litigation?

19 A. Larry and I had often frequent  
20 friendly discussions on the case, and what  
21 could and might happen and so forth. And  
22 our -- you know, so -- I mean, I -- you know, I  
23 think we talked about that there were big legal  
24 fees that someone might have to pay. But it  
25 was all in a very friendly context.

1 ROESLER

2 Q. Do you recall ever telling Mr.  
3 Shaw, Larry Shaw, that if CMG and MMLLC  
4 prevailed in this litigation, Larry and my  
5 clients would be responsible for paying CMG's  
6 and MMLLC's legal fees?

7 MR. MINCH: Objection.

8 Q. Under the Indiana statute.

9 MR. MINCH: Objection.

10 A. I don't -- I don't know that I do  
11 recall or don't recall. Like I said, we often  
12 talked about the implications of the lawsuit  
13 and the costs and so forth. So there may have  
14 been something to that effect. But I don't  
15 have a specific recollection of it.

16 Q. Let me refresh your recollection.

17 MR. SERBAGI: If you could mark as  
18 Roesler 14 a document that we have  
19 previously produced in connection with  
20 the pleadings in this case. It does not  
21 bear a production number. We do have it.  
22 It is from Larry Shaw -- no. It is two  
23 e-mails, one from Mark Roesler to Larry  
24 Shaw and others, and also an e-mail back  
25 from -- strike that.

EX. C

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 3/7/08

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SHAW FAMILY ARCHIVES LTD., EDITH  
MARCUS and META STEVENS,

Plaintiffs,

-against-

CMG WORLDWIDE, INC. and MARILYN  
MONROE LLC,

Defendants.

Case No. 05 Civ. 3939 (CM)

Hon. Colleen McMahon


STIPULATION

WHEREAS the parties have conferred in an effort to avoid spending time at trial authenticating documents about which there is no genuine dispute;

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel that, for purposes of this action, all documents produced in discovery prior to the January 1, 2008 discovery deadline, except (i) those documents bearing a production number with the prefix "MC" and (ii) a purported audio recording of a 1955 radio interview of Marilyn Monroe and any transcript thereof, are authentic under Federal Rules of Evidence 901, *et seq.*;

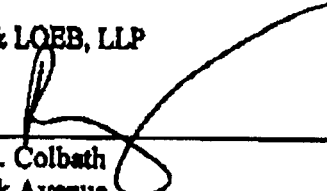
IT IS FURTHER STIPULATED AND AGREED by and between the undersigned counsel that nothing in this Stipulation shall prevent any party from objecting to any document or piece of evidence on any ground other than authenticity.

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*Attorneys for CMG Worldwide, Inc.*

Dated: New York, New York  
March 6, 2008

So Ordered.

3/7/08

  
Hon. Colleen McMahon  
U.S.D.J.

NY704720.1

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Dated: New York, New York  
March 6, 2008

So Ordered.

\_\_\_\_\_  
Hon. Colleen McMahon  
U.S.D.J.

NY706720.1

EX. D

**christopher serbagi**

Thursday, March 27, 2008 3:55 PM

**Subject:** <no subject>

**Date:** Monday, January 28, 2008 11:20 PM

**From:** Christopher Serbagi <c.serbagi@earthlink.net>

**To:** Jonathan Neil Strauss <jstrauss@loeb.com>, Paula Colbath <pcolbath@loeb.com>

**Cc:** "dmmlitigates@optonline.net" <dmmlitigates@optonline.net>

Jon:

As discussed just now on the phone, I received today from the California Surrogates Court and the Hawaii District Court certified documents that we will produce tomorrow in the form we received them. We think that all these documents have been produced by the parties before, although it appears that some of the Hawaii documents have not been produced by Defendants. We are currently investigating that matter.

Best,

Christopher Serbagi

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